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23 OCT 2007

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In re Application of:
SOMMER, Manfred
U.S. Application No.: 10/597,044
PCT Application No.: PCT/DE2004/002788
International Filing Date: 21 December 2004
Priority Date: 09 January 2004
Attorney's Docket No.: 01954/0205047-US0
For: ROTARY PUMP PROVIDED WITH
AN AXIALLY MOVABLE BLADE

DECISION ON PETITION
(37 CFR 1.181)

This decision is issued in response to applicant's "Request For A Corrected Notice Of Acceptance Of Application" filed 26 July 2007, treated herein as a petition under 37 CFR 1.181 to correct the 35 U.S.C. 371(c) date. No petition fee is required.

BACKGROUND

On 21 December 2004, applicant filed international application PCT/DE2004/002788. The international application claimed a priority date of 09 January 2004, and it designated the United States. On 21 July 2005, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 10 July 2006 (09 July 2006 was a Sunday).

On 10 July 2006, applicants filed papers to initiate a U.S. national stage application. This submission included, among other materials, a Transmittal Letter (Form PTO-1390), payment of the basic national fee, and a translation of the international application into English.

On 27 March 2007, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Acceptance (Form PCT/DO/EO/903) identifying 10 July 2006 as the date of receipt of the requirements under 35 U.S.C 371(c)(1), (c)(2), and (c)(4). On the same date, the USPTO issued a filing receipt identifying the 35 U.S.C. 371(c) date as 10 July 2006.

On 26 July 2007, applicant filed the "Request For A Corrected Notice Of Acceptance Of Application" considered herein, accompanied by an executed declaration and additional materials and fees.

DISCUSSION

In the present petition, applicant asserts that the Notification Of Acceptance (Form PCT/DO/EO/903) mailed 27 March 2007 was issued in error in that applicant had not yet submitted an executed declaration in compliance with 37 CFR 1.497, as required to satisfy 35 U.S.C. 371(c)(4). However, the international application as filed included an executed declaration filed under PCT Rule 4.17(iv). As set forth in 37 CFR 1.497(a), where a declaration in compliance with 37 CFR 1.497 has been timely submitted in the international application under PCT Rule 4.17(iv), a new declaration under 37 CFR 1.497 is not required.

In the present application, the declaration filed in the international application under PCT Rule 4.17(iv) satisfied the declaration requirement of 35 U.S.C. 371(c)(4), and applicant's 10 July 2006 submission included the fee payment and English translation required under 35 U.S.C. 371(c)(1) and (c)(2). Accordingly, the requirements of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) were satisfied herein as of 10 July 2006. The Notification Of Acceptance (Form PCT/DO/EO/903) mailed 27 March 2007, which properly identified the 35 U.S.C. 371(c) date as 10 July 2006, was therefore correctly issued, and a corrected Notification Of Acceptance is not required.

CONCLUSION

Based on the above, applicants' petition under 37 CFR 1.181 requesting correction of the date under 35 U.S.C. 371(c) and the issuance of a corrected Notification Of Acceptance based thereon, is **DISMISSED** without prejudice.

The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) remains 10 July 2006, as indicated in the Notification Of Acceptance (Form PCT/DO/EO/903) and filing receipt mailed 27 March 2007.

The application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision.



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